

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CV-521-D

SMOOT HOLDINGS, LLC,
and DAVID M. SMOOT,

Plaintiffs,

v.

CITY OF RALEIGH,
FRANCIS P. RASPBERRY, JR.,
and THOMAS A. MCCORMICK,


Defendants.

ORDER

On July 13, 2012, the court held oral argument on all pending motions. During argument, defendants contended that the right-of-way easement in dispute was not taken as part of the Wake County Superior Court's judgment of March 26, 2010. Plaintiffs disagreed. In light of this disagreement, the court stays the action pending clarification from the Wake County Superior Court as to whether the Wake County Superior Court's judgment of March 26, 2010, included the disputed right-of-way easement.

Accordingly, the court DENIES without prejudice all pending motions [D.E. 21, 29] and STAYS the action. The court DIRECTS the parties to return to Wake County Superior Court in order to clarify under Rule 60(b) of North Carolina Rules of Civil Procedure (or other appropriate process) the scope of the Wake County Superior Court's judgment of March 26, 2010. The court DIRECTS the parties to report to the court not later than October 31, 2012, the status of any additional proceedings in Wake County Superior Court. If the parties desire, the court will then schedule and hold a status conference.

SO ORDERED. This 13 day of July 2012.



JAMES C. DEVER III
Chief United States District Judge